

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE CERTIFYING THE ALMADEN OFFICE
PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT
REPORT TO THE DOWNTOWN STRATEGY 2040 FINAL
ENVIRONMENTAL IMPACT REPORT AND MAKING
CERTAIN FINDINGS CONCERNING SIGNIFICANT
IMPACTS, MITIGATION MEASURES AND
ALTERNATIVES, AND ADOPTING A STATEMENT OF
OVERRIDING CONSIDERATIONS AND A RELATED
MITIGATION MONITORING AND REPORTING PROGRAM,
ALL IN ACCORDANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT, AS AMENDED**

WHEREAS, the Supplemental Environmental Impact Report (SEIR) analyzed the environmental impacts of a Site Development Permit (SP20-005) for the demolition of an existing surface parking lot and construction of up to approximately 1,727,777 square feet of office in two 16-story towers (North Tower and South Tower) on an approximately 3.57-acre site located at the northwest corner of South Almaden Boulevard and Woz Way (APNs: 264-28-019, -022, -023, -024, -025, -028, -149, -152, -153, -160, -167, -168, -169, -172, -173, -174, -175, and -176) in the City of San José, (collectively referred to herein as the “Project”); and

WHEREAS, approval of the Project would constitute a Project under the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, “CEQA”); and

WHEREAS, the City of San José (“City”) prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Downtown Strategy 2040 (“Downtown Strategy FPEIR”), which updated the Downtown Strategy 2000 Final Environmental Impact Report to be consistent with the Envision

San José 2040 General Plan including an increase in the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year to 2040; and

WHEREAS, in connection with the adoption of a resolution approving said Downtown Strategy 2040 Plan (Planning File No. PP15-102), the City Council adopted Resolution No. 78942 on December 18, 2018, setting forth certain findings pertaining to the Downtown Strategy FPEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, the proposed Project was evaluated and analyzed under the Downtown Strategy FPEIR and it was determined a supplemental environmental report to the Downtown Strategy FPEIR was required as further explained in the initial study and FSEIR, as defined below, for the Project; and

WHEREAS, the City is the lead agency for the Project, and has prepared a Final Supplemental Environmental Impact Report for the Project pursuant to and in accordance with CEQA, which the Final Environmental Impact Report is comprised of the Draft Supplemental Environmental Impact Report for the Project (the “Draft SEIR”), together with the First Amendment to the Draft SEIR (collectively, all of said documents are referred to herein as the “FSEIR”); and

WHEREAS, on August 25, 2021, the Planning Commission of the City of San José reviewed the FSEIR prepared for the Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects of the project, the decision-making body of a public agency make certain findings regarding those effects and adopt a mitigation or monitoring program and overriding statement of consideration for any impact that may not be reduced to a less than significant level;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

1. That the above recitals are true and correct; and
2. That the City Council does hereby find and certify that the FSEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and has independently reviewed and analyzed, the FSEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FSEIR and the Project, prior to acting upon or approving the Project, and has found that the FSEIR represents the independent judgment of the City of San José ("City") as lead agency for the Project, and designated the Director of Planning, Building and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and
4. That the City Council does hereby find and recognize that the FSEIR contains additions, clarifications, modifications, and other information in its response to comments on the Draft SEIR or obtained by the City after the Draft SEIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft SEIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft SEIR that would

lessen a significant environmental impact of the Project has been proposed and would not be implemented; and

5. That the City Council does hereby find and determine that recirculation of the FSEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FSEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FSEIR, which full administrative record should be consulted for the full details supporting these findings.

ALMADEN OFFICE PROJECT SIGNIFICANT ENVIRONMENTAL IMPACTS

Air Quality

Impact: **Impact AIR-1:** Construction activities associated with the proposed project would expose off-site receptors to cancer risk and PM_{2.5} emissions in excess of Bay Area Air Quality Management District (BAAQMD) thresholds of 10 cases per one million and 0.3 µg/m³.

Mitigation: **MM AIR-1.1:** Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet United States Environmental Protection Agency (U.S. EPA) Tier 4 emission standards.
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to California Air Resources Board (CARB) Level 3

verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.

- Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include but not be limited to the following:

- List of activities and estimated timing.
- Equipment that would be used for each activity.
- Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.
- How the construction contractor will ensure that the measures listed are monitored.
- How the construction contractor will remedy any exceedance of the thresholds.
- How often and the method the construction contractor will use to report compliance with this mitigation measure.

The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).

Finding: With implementation of the required standard permit conditions for dust and Mitigation Measure AIR-1.1, the construction cancer risk would be reduced to 8.0 cases per one million for infants, the maximum annual PM_{2.5} concentration would be reduced to 0.43 µ/m³, and the Hazard Index would be 0.01. Even with mitigation, the maximum annual PM_{2.5} concentration would still exceed BAAQMD's significance threshold of 0.3 µg/m³, resulting

in a significant unavoidable impact to off-site receptors. **(New Significant Unavoidable Impact)**

Facts in Support of Finding: Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known toxic air contaminant (TAC). Construction exhaust emissions could pose a health risk to nearby sensitive receptors due to increased cancer risk and exposure to PM_{2.5}. The nearest sensitive receptors, a residential area, are located approximately 150 feet south of the project site. A health risk assessment for the project that included on-site construction and hauling activities, evaluated the potential health effects to nearby sensitive receptors (within 1,000 feet of the project site) from construction emissions of diesel particulate matter (DPM) and PM_{2.5} for a period of five years. The project proposes extended construction hours which would include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of the entire project construction period.

The CalEEMod model was used to determine total annual DPM and PM_{2.5} for off-road construction equipment and on-road worker vehicles. The U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and PM_{2.5} concentrations at existing receptors in the vicinity of the project construction area and construction haul routes. Based on the U.S. EPA AERMOD dispersion model assumptions and results (Appendix B of SEIR), and as shown in Table 10 of the Air Quality Assessment, the cancer risks (for infants) and annual PM_{2.5} concentration from project construction would exceed BAAQMD's single-source significance thresholds of 10 cases per one million and 0.3 µg/m³, respectively.

With implementation of Mitigation Measure AIR-1, the increased cancer risk would be decreased to 7.96 per million and not exceed the BAAQMD single source threshold of greater than 10.0 per million. However, even with mitigation, the annual mitigated PM_{2.5} concentration of 0.43 µg/m³ would still exceed the single-source threshold of 0.3 µg/m³. Therefore, even with implementation of standard construction measures and Mitigation Measure AIR-1, the project would still have an increased community risk due to its PM_{2.5} concentration.

Impact: **Impact AIR-2:** Operational activities associated with the proposed project would expose the off-site maximum exposed individual (MEI) to cancer risk and annual PM_{2.5} in excess of BAAQMD thresholds of 10 cases per one million and 0.3 µg/m³.

Mitigation: MM AIR-2.1: Prior to installation of any emergency generator, the project applicant shall submit documentation that demonstrates the equipment used on-site includes diesel particulate matter (DPM) filters that achieve a minimum 85 percent reduction in particulate matter emissions or submit documentation that has been reviewed and approved by the City demonstrating that the project generators will not increase lifetime cancer risk by 10 cases per one million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures:

- Placement of the equipment;
- Placement and orientation of the exhaust stacks;
- Application of exhaust controls such as diesel particulate matter filters that reduce DPM by 85 percent; and/or
- Limitation to the operation hours to less than 50 hours per year.

Finding: With implementation of Mitigation Measure AIR-2.1, residential cancer risk from project generators would be reduced from 73.4 cases per one million to 9.97 cases per one million which is less than BAAQMD's significance threshold of 10 cases per one million. In combination with Mitigation Measures AIR-1.1 and the standard permit conditions, residential cancer risk from construction and operation of the Project would be reduced to 9.97 cases per one million. Even with implementation of the measures, the Project would still exceed BAAQMD's significance threshold of $0.3 \mu\text{g}/\text{m}^3$ for $\text{PM}_{2.5}$ resulting in a significant unavoidable impact to the off-site maximum exposed individual (MEI). **(Significant Unavoidable Impact)**

Facts in Support of Finding: The project impact is computed by adding the construction cancer risk to the increased cancer risk for the project operational conditions over a 30-year exposure period. The maximum modeled annual DPM and $\text{PM}_{2.5}$ concentrations were identified at a single-family residence located approximately 150 feet south of the project site, also identified as the maximally exposed individual (MEI). At this location, the MEI would be exposed to five years of construction increased cancer risks and 26 years of operational (includes traffic and emergency backup generators) increased cancer risks. The cancer risks from construction and operation of the project were summed together.

As shown in Table 10 of the Air Quality Assessment, the unmitigated increased cancer risks and annual unmitigated $\text{PM}_{2.5}$ concentrations from construction and operation activities would exceed the single-source significance thresholds. With implementation of Mitigation Measure AIR-1,

the increased cancer risk would be decreased to 9.97 per million and not exceed the BAAQMD single source threshold of greater than 10.0 per million. However, even with mitigation, the annual mitigated PM_{2.5} concentration of 0.43 µg/m³ would still exceed the single-source threshold of greater than 0.3 µg/m³. Therefore, the Project would have a significant unavoidable impact to the off-site MEI.

Impact: **Impact AIR(C)-1:** The maximum annual PM_{2.5} concentration would exceed the BAAQMD threshold of 0.8 µg/m³ for cumulative sources and cancer risk BAAQMD threshold of less than 100 cases per million.

Mitigation: Mitigation measures identified for AIR-1.1 (detailed above).

Finding: With implementation of Mitigation Measure AIR-1.1 and the required standard permit conditions, the cumulative residential cancer risk would be reduced to 71.27 cases per one million which is less than BAAQMD's cumulative significance threshold of 100 cancer cases per million. With implementation of Mitigation Measure AIR-1.1 and the required standard permit conditions, the significant PM_{2.5} impacts would be reduced to 1.52 which still exceeds BAAQMD's cumulative significance threshold of 0.8 µg/m³. **(Significant Unavoidable Cumulative Impact)**

Facts in Support of Finding: Table 3.1-8 of the SEIR identified toxic air contaminants (TACs) within 1,000 feet of the project site and its risks at the MEI. With these existing sources and the construction of the proposed Project, the Project could result in significant TAC impacts. With implementation of Mitigation Measure AIR-1.1 and the standard permit conditions, the maximum excess residential cancer risk from combined sources would be 71.27 cases per million maximum cancer risk which is less than BAAQMD's cumulative significance threshold of 100 cases per million. Even with implementation of Mitigation Measure AIR-1.1 and the standard permit conditions, the cumulative PM_{2.5} concentration would continue to exceed BAAQMD's cumulative significance threshold of 0.8 µg/m³. As a result, the Project would have a significant unavoidable cumulative community risk impact from TAC sources and would continue to significantly affect six single-family residences. This exceedance would only occur during the first year of construction when demolition, site preparation, grading, and foundation work would occur.

Biological Resources

Impact: **Impact BIO-1:** The proposed building design would result in bird collisions with the building's northern, western, and southern façades.

Mitigation: **MM BIO-1.1:** Due to the potential for the proposed towers on the project site to result in a high number of bird collisions, prior to the issuance of any building permits, the project applicant shall implement the following bird-safe building design considerations at the building's north, west, and south-facing façades that encroach entirely or partially within the 100-foot riparian setback to comply with Leadership in Energy and Environmental Design (LEED) Pilot Credit 55: Bird Collision Deterrence:

- At a height of 0 to 36 feet above-grade and 0 to 12 feet above any green roof, no more than 15 percent of the glazed area shall have a Threat Factor¹ higher than 75.
- All glazed corners or fly-through conditions, created when windows meet perpendicularly on a corner or when windows are installed parallel in close proximity such that a clear line of sight is created through the building, shall have a Threat Factor less than or equal to 25.
- All structures other than the main building(s) on-site, including but not limited to handrails, guardrails, windscreens, noise barriers, gazebos, pool safety fencing, bush shelters, band shells, etc., shall be constructed entirely of materials with a Threat Factor of 15 or lower.
- The combined façades shall achieve a maximum Bird Collision Threat Rating of 15 or lower.
- The project applicant shall develop a lighting design strategy to effectively eliminate or reduce light trespass from the building by either requiring that all interior lighting must be turned off by night-time personnel after hours when the space is unoccupied or controlled automatic shutoffs such that all lighting shall automatically shut off after the space is unoccupied for 30 minutes (with exceptions).

¹ A material's Threat Factor is assigned by the American Bird Conservancy, and refers to the level of danger posed to birds based on birds' ability to perceive the material as an obstruction, as tested using a "tunnel" protocol (a standardized test that uses wild birds to determine the relative effectiveness of various products at deterring bird collisions). The higher the Threat Factor, the greater the risk that collisions will occur. An opaque material will have a Threat Factor of 0, and a completely transparent material will have a Threat Factor of 100.

- The project applicant shall develop a lighting design strategy to effectively reduce or eliminate light trespass from exterior fixtures, either by shielding fixtures and programming them to automatically shut off from midnight until 6:00 AM or demonstrating that the project complies with the exterior lighting requirements of the latest published LEED for New Construction SS Credit, Light Pollution Reduction.
- The project applicant shall develop a three-year post-construction monitoring plan to routinely monitor the effectiveness of the building and site design in preventing bird collisions.

MM BIO-1.2: Prior to issuance of any building permits, the project applicant shall submit a verification letter or plan to the Director of Planning, Building and Code Enforcement or Director's designee to ensure that all identified bird-safe design considerations have been met. The plan shall be accompanied by a letter signed by a qualified biologist, verifying that the building design, as proposed, complies with LEED Pilot Credit 55: Bird Collision Deterrence.

Finding: Implementation of Mitigation Measures BIO-1.1 and BIO-1.2 would reduce the number of bird collisions to less than significant. **(New Less Than Significant Impact with Mitigation Incorporated)**

Facts in Support of Finding: Glass windows and building facades can result in injury or mortality of birds due to birds colliding with these surfaces. The proposed building design would result in bird collisions with the building's northern, western, and southern façades. To reduce the number of bird collisions, the Project would implement the identified bird-safe building design considerations on the building's north, west, and south-facing façades that encroach entirely or partially within the 100-foot riparian setback per Mitigation Measures BIO-1.1 and BIO-1.2. To ensure that all bird-safe design considerations have been met, the applicant shall submit a verification letter or plan to the Director of Planning, Building and Code Enforcement or Director's designee prior to issuance of any building permits. The plan shall be accompanied by a letter signed by a qualified biologist, verifying that the building design, as proposed, complies with LEED Pilot Credit 55: Bird Collision Deterrence.

Impact: **Impact BIO(C)-1:** Construction and operation of the new buildings within 35 feet of the edge of the riparian corridor would result in a cumulatively considerable contribution to the Guadalupe River as a whole.

Mitigation: MM BIO(C)-1.1: Compensation. Prior to the issuance of any grading or building permits, the project applicant shall provide compensatory mitigation to offset project impacts on the ecological functions and values of the riparian corridor. Such compensatory mitigation shall be provided as follows:

- Riparian habitat shall be enhanced or restored to native habitat along the immediately adjacent riparian corridor,² and/or off-site on the Santa Clara Valley floor and in areas that drain to the San Francisco Bay, at a minimum ratio of 2:1 (compensation:impact), on an acreage basis, for a total of 3.6 acres of enhanced or restored habitat to compensate for 1.8 acres of project encroachment within the 100-foot setback.
- The project applicant shall submit verifications of restoration programs and locations, consistent with the requirement of this measure, to the Director of Planning, Building, and Code Enforcement or Director's designee, prior to the issuance of any grading permit or building permit. Restoration work shall be completed prior to issuance of any occupancy permit.

MM BIO(C)-1.2: Riparian Habitat Mitigation and Monitoring Plan. Prior to the issuance of any grading or building permits, the project applicant shall submit a *Riparian Habitat Mitigation and Monitoring Plan* (Plan) that describes the mitigation that shall be performed for on-site or off-site restoration/enhancement shall be prepared. The Plan shall be prepared and verified by a qualified biologist. The Plan shall include, but is not limited to, the following:

- Summary of habitat impacts and proposed mitigation ratios
- Goal of the restoration to achieve no net loss of habitat functions and values
- Location of mitigation site(s) and description of existing site conditions
- Mitigation design which includes:
 - Existing and proposed site hydrology
 - Grading plan if appropriate (including bank stabilization or other site stabilization features)
 - Soil amendments and other site preparation elements as appropriate

² The applicant shall obtain permission from the City of San José and/or the Santa Clara Valley Water District (Valley Water) to restore/enhance the riparian corridor immediately adjacent to the project site. Valley Water may not grant permission for this work, as they often look for such opportunities as mitigation for their own projects.

- Planting plan
- Irrigation and maintenance plan
- Remedial measures and adaptive management
- Restoration/enhancement/mitigation design that is provided along the immediately adjacent riparian corridor shall, at the minimum, consist of the removal of non-native trees, shrubs, and vines and the planting of native riparian vegetation. Where feasible, plantings used for the riparian restoration/enhancement shall be grown from propagules collected in the watershed where the work will occur to protect the genetic integrity of the locally native riparian species. Acreage will be credited based on the extent of nonnative vegetation removed.
- All restoration/enhancement along the adjacent Guadalupe River shall be conducted within the existing riparian canopy and not on the project site itself (i.e., not within areas that are currently paved) due to the presence of the Guadalupe River Trail. The Guadalupe River Trail separates the existing riparian vegetation from the site and precludes the creation of high-quality riparian habitat on -site.
- Off-site restoration/enhancement must restore or augment high -quality riparian habitat for native riparian wildlife communities. Such restoration shall need to occur in an area with sufficient setbacks and appropriate soils and hydrology to support high-quality riparian vegetation.
- The Plan shall also include final and performance criteria, monitoring methods, data analysis, reporting requirements, and monitoring schedule). Success criteria will include quantifiable measurements of riparian vegetation type (e.g., dominance by natives) and extent appropriate for the riparian restoration location, and provision of ecological functions and values equal to or exceeding those in the riparian habitat affected. At a minimum, success criteria shall include following:
 - At Year 10 post-planting, canopy closure at the mitigation site shall be at least 60 percent of the canopy closure at a nearby reference site (i.e., a site supporting the same habitat type as that being established at the mitigation site).

Monitoring methods and frequency shall be outlined in the Plan. The Plan shall include monitoring between Years 1 and 10 to document progress toward meeting the success criteria so that any necessary remedial actions can be taken to ensure that the success criteria are met. Monitoring beyond Year 10 shall be necessary if the success

criteria is not met by Year 10, as monitoring is required until all success criteria defined in the Plan have been met.

The Plan shall be implemented within one year following project impacts on riparian woodland. In addition, a letter signed by a qualified biologist accompanying the Plan shall be submitted to and approved by the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition, grading and building permits (whichever occur the earliest).

Finding: With implementation of Mitigation Measures BIO(C)-1.1 and BIO(C)-1.2, encroachment of new buildings within 35 feet of the riparian corridor would still result in a cumulatively considerable contribution to the impact on the riparian corridor. **(New Cumulative Significant and Unavoidable Impact).**

Facts in Support of Finding: Encroachment of the project within the standard 100-foot riparian setback would result in a considerable contribution to significant cumulative impacts (without mitigation). The proposed project would encroach a total of 1.8 acres within the 100-foot setback but would not extend past the existing footprint of the surface parking lot that is currently onsite. The project's contribution to cumulative impacts on the Guadalupe River riparian corridor, as a whole, due to encroachment would be cumulatively considerable as it represents a new type of development that would have a greater impact on the adjacent corridor due to the reduction in wildlife use from the tall buildings, avian collisions with the new towers, and shading compared to existing conditions. Based on the findings in the Biological Resources Report, encroachment within 35 feet³ of the riparian corridor was determined to be acceptable with implementation of Mitigation Measures BIO(C)-1.1 and BIO(C)-1.2. This mitigation measure would provide 3.6 acres of restored habitat on the Santa Clara Valley floor and in areas that drain to the San Francisco Bay. The Riparian Habitat Mitigation and Monitoring Plan developed by a qualified biologist would ensure that restored habitat meets the success criteria for a period of at least 10 years in order to help reduce cumulative effects on the Guadalupe River. Even with implementation of Mitigation Measures BIO(C)-1.1 and BIO(C)-1.2, encroachment of new buildings within 35 feet of the riparian corridor would still result in a cumulatively considerable contribution to the impact on the riparian corridor as it could add to the cumulative impacts to the river and area. The proposed building would be located within 35 feet of the edge of riparian vegetation or top of bank, whichever is greater, therefore a cumulative impact would occur.

³ The 35-foot setback was determined to be the appropriate minimum setback allowed by the SCVHP.

Hazards and Hazardous Materials

Impact: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.

Mitigation: **MM HAZ-1.1:** Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant or its contractor shall enter the Site Cleanup Program (SCP) with the Santa Clara County Department of Environmental Health (SCCDEH) to evaluate the past uses of the property. As part of the SCP, an initial kickoff meeting will be held with SCCDEH staff who will review the April 2019 Phase I Environmental Site Assessment by *Haley & Aldrich, Inc.* and the proposed development. Based upon this review, the SCCDEH may require a Phase II Environmental Site Assessment, a Soil and Groundwater Management Plan, and/or other studies to ensure the proposed development is safe for construction workers and future site occupants.

Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant or contractor shall submit proof of coordination with the SCCDEH and entrance into the SCP to the Director of Planning, Building and Code Enforcement, or Director's designee, and the Municipal Compliance Officer

Finding: Implementation of Mitigation Measure HAZ-1.1 would reduce potential hazards to the public or environment to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: The measure would require entrance into the SCP with the SCCDEH to evaluate past uses of the site. Based upon this review, the SCCDEH may require a Phase II Environmental Site Assessment, a Soil and Groundwater Management Plan, and/or other studies to ensure the proposed development is safe for construction workers and future site occupants. This measure would ensure appropriate agency oversight prior to and during construction activities and with the implementation of Mitigation Measure HAZ-1.1, the Project would not create a significant hazard to the public or environment.

Noise

Impact: **Impact NOI-1:** Project construction would last for a period of more than 12 months which would impact residents and nearby land uses. Projects that

have construction periods of more than 12 months are considered to have a significant noise impact without mitigation.

Mitigation: MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:

- In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.
- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450). Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line of sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited. Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such

as residential uses (a minimum of 200 feet, where feasible). Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.

- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Finding: Implementation of Mitigation Measure NOI-1.1 would have a less than significant impact from the increase in ambient noise levels in the project area due to construction. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: The proposed project would be constructed in 51 months, which exceeds the 12-month construction noise threshold pursuant to General Plan Policy EC-1.7. In addition to the City's allowable hours of construction, the project proposes extended construction hours to include Saturday work from 7:00 AM to 7:00 PM and 24-hour concrete pours for up to 12 days per year over the course of the entire project construction period. To comply with MM NOI-1.1, the applicant would be required to submit and implement a construction noise logistics plan which would include: specific hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise logistic plan shall be submitted to the Director or Director's designee of the Department of Planning, Building and Code Enforcement prior to the issuance of any grading or demolition permits. Implementation of Mitigation Measure NOI-1.1 would reduce noise impacts to a less than significant level.

Impact: **Impact NOI-2:** Nighttime construction activities which include up to twelve (12) 24-hour concrete pours would impact up to 11 single-family residences located south and southeast of the project site. The City's allowable hours for construction activities are from 7:00am to 7:00pm, Monday to Friday. Construction hours extending beyond this are considered to have a significant noise impact without mitigation.

Mitigation: **MM NOI-2.1:** Prior to issuance of any building permits and during all nighttime⁴ construction activities, the project applicant shall implement the following measures to reduce nighttime noise impacts at nearby noise-sensitive residences:

- Limit the active equipment to as few pieces of equipment as possible.
- To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours and/or the work sites shall be arranged to avoid the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or "smart alarms" that automatically adjust the alarm to five dBA above the ambient near the operating equipment).

⁴ Nighttime hours include hours outside of the City's allowable construction hours of 7:00 AM to 7:00 PM

- Nighttime concrete pouring shall be restricted to the northernmost equipment location as shown in Figure 3.3-2 of the Draft SEIR or Figure 6 of Appendix G of the Draft SEIR or a minimum distance of 270 feet from the southern and northern boundaries. No concrete trucks and pumps shall be operated along Woz Way during all nighttime activities.
- If nighttime construction noise results in excessive disruption, as defined below, to the 11 nearby residences after implementation of the aforementioned measures, the project applicant will be required to implement a construction noise monitoring plan. "Excessive disruption" as used in Mitigation Measure NOI-2.1 is defined as noise levels that are five dBA or more over the identified thresholds of 63 dBA L_{eq} exterior noise level at the first row of south residences and hotel; and 53 dBA L_{eq} at the southeast residences. The plan will include a provision for noise monitoring at the identified receptors, measured from the residential property line, to confirm that nighttime construction noise levels meet the applicable thresholds at the single-family residential land uses. Specifically, construction monitoring shall occur for the first two days of nighttime construction after initiation of the plan to demonstrate that the nighttime construction activities are compliant with the construction noise level thresholds. If additional complaints are received after confirmation of the construction noise levels, additional monitoring will be required at regular intervals as outlined in the plan. In the event of noise complaints, the contractor will provide information (e.g., noise levels measured and activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds) to the project applicant and the City within 48 hours of being notified of the complaint. The construction noise monitoring plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of building permits.
- Sensitive receptors identified by the noise monitoring plan with the potential to be exposed to nighttime construction noise levels exceeding 63 dBA L_{eq} at the southern residences or 53 dBA L_{eq} at the southeastern residences, shall be provided with vouchers for alternate accommodations for the specific dates that nighttime construction is scheduled.
- Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the nighttime construction schedule, in writing, at least seven days prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for

responding to any local complaints about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A telephone number for the liaison shall be conspicuously posted at the construction site.

Finding: In addition to Mitigation Measure NOI-1.1, implementation of Mitigation Measure NOI-2.1 would result in a less than significant nighttime construction noise impact. **(Less Than Significant Impact with Mitigation)**

Facts in Support of Finding: Nighttime construction activities would include concrete pouring only, which would include concrete trucks and pumps. Based on the nature of concrete pouring and the type of equipment to be used, it is assumed that all noise-generating activities from the equipment would occur on the ground level during each year of nighttime construction work. The Federal Highway Administration's (FHWA) Roadway Construction Noise Model was used to calculate the hourly average noise levels for nighttime concrete pouring. According to the noise report, if concrete trucks and pumps were positioned along Woz Way, the first and second row of residences to the south of Woz Way would be exposed to a noise level of up to 80 dBA Leq and 70 dBA Leq, respectively. This would exceed the nighttime noise threshold by 17 dBA Leq and seven dBA Leq when concrete pouring occurs along Woz Way. If concrete trucks and pumps are located along Woz Way, the residences located southeast of the South Almaden Avenue/Balbach Street intersection would be exposed to a nighttime noise level of up to 59 dBA Leq. The ambient noise levels would potentially be exceeded by up to six dBA Leq. Implementation of Mitigation Measure NOI-2.1, as well as all measures included in the Downtown San José Strategy Plan 2040 EIR and Policy EC-1.7 of the City's General Plan, would reduce nighttime construction noise levels emanating to existing nighttime ambient noise conditions, and with the inclusion of hotel vouchers for sensitive receptors with the potential to be exposed to nighttime construction noise levels exceeding 63 dBA Leq at the southern residences or 53 dBA Leq at the southeastern residences, the disruption and annoyance to the surrounding noise-sensitive receptors would be reduced to a less-than-significant level.

Impact: **Impact NOI(C)-1:** Construction of the proposed project could occur at the same time as Museum Place, 200 Park Avenue Office, CityView Plaza Office, and Balbach Affordable Housing projects which would expose the receptors in the immediate vicinity to significant unavoidable construction noise impact.

Mitigation: Mitigation measures identified for NOI-1.1 and NOI-2.1 (detailed above).

Finding: Construction activities for projects within 1,000 feet would last more than 12 months. All four projects would individually impact the nearby residential receptors and when combined, would have a cumulative considerable noise impact even with inclusion of the respective mitigation measures. Due to the size of each project and length of time project construction would take, the receptors within the immediate vicinity would be exposed to significant unavoidable construction noise impact. **(New Cumulative Significant and Unavoidable Impact).**

Facts in Support of Finding: Construction of the project could occur at the same time as the Museum Place, 200 Park Avenue Office, CityView Plaza Office, and Balbach Affordable Housing projects. Construction activities for projects within 1,000 feet would last more than 12 months. All four projects would individually impact the nearby residential receptors and when combined, would have a cumulative considerable noise impact even with inclusion of the respective mitigation measures. Due to the size of each project and length of time project construction would take, the receptors within the immediate vicinity would be exposed to significant unavoidable construction noise impacts (even with implementation of the respective mitigation measures).

FINDINGS CONCERNING ALTERNATIVES

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts that are anticipated to occur if the Project is implemented and to try to meet as many of the Project's objectives as possible. The CEQA Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and should focus on alternatives that avoid or substantially lessen the significant impacts.

The alternatives analyzed in the Draft SEIR were developed with the goal of being at least potentially feasible, given Project objectives and site constraints, while avoiding or reducing the Project's identified environmental effects. Seven alternatives were explored, including a Location Alternative and Modified Construction Schedule that was determined to be infeasible and considered rejected. The following are evaluated as alternatives to the proposed Project:

1. No Project – No New Development
2. Reduced Development Alternative 1 (Option 1) – Reduce Square Footage With 35-Foot Setback

3. Reduced Development Alternative 1 (Option 2) – Reduce Square Footage With 100-Foot Setback
4. Reduced Development Alternative 2 – Square Footage Reduction and Increase in Height

1. No Project – No Development Alternative

- A. **Description of Alternative:** The No Project – No Development Alternative would retain the existing pay-to-park public parking lot as is. If the project site were to remain as is, there would be no new impacts.
- B. **Comparison of Environmental Impacts:** The No Project – No Development Alternative would avoid all of the project's environmental impacts.
- C. **Finding:** The No Project – No Development Alternative would avoid the Project's significant unavoidable impacts from construction and operational activities associated with the Project. Additionally, the Project's cumulative significant unavoidable impact to the riparian corridor would be avoided. The No Project – No Development Alternative would not meet any of the proposed Project's specific objectives because it would not meet any of the City's strategies and goals of the Downtown Strategy 2040 by redeveloping the site with a high-density office campus with amenity/retail and public space. Because this alternative would not meet any of the proposed Project's specific objectives, this alternative is rejected.

2. Reduced Development Alternative 1 (Option 1) – Reduced Square Footage With 35 Foot Setback

- A. **Description of Alternative:** Under the Reduced Development Alternative 1 (Option 1), the two office towers would be 16 stories tall (which includes one mechanical penthouse floor) with a total project square footage of 1,659,795 square feet⁵. This option would be the same height as the proposed project but would have an increased setback. This alternative would include four levels of below-grade parking for a total of 1,148 parking spaces. The proposed building would be set back from the edge of the property line by 35 feet, which would be a reduction of 392,233 square feet of . The proposed project has an estimated setback ranging from zero to 26 feet from the property line. This alternative would still include site improvements within the 35-foot setback from the proposed building to the property line.

⁵ Includes the basement square footage.

- B. Comparison of Environmental Impacts:** In order to reduce the project's significant unavoidable air quality impact (during construction and operation) and the cumulatively considerable biological resources impact due to encroachment of the buildings within the Guadalupe River riparian corridor (as a whole), the proposed Project would need to provide a wider setback and reduce the size of the proposed project. The Reduced Development Alternative 1 (Option 1) would result in the same air quality impacts as the proposed Project. The reduction in building size and increase in buffer between the towers and the property line would provide a greater setback from the riparian corridor compared to the proposed Project. This alternative would provide a 25 foot setback from the property line whereas the proposed project has a setback ranging from approximately zero to 26 feet from the property line. As discussed in the Draft SEIR, the cumulative significant unavoidable encroachment impact would be avoided if the towers are set back at least 35 feet from the Guadalupe River riparian corridor and implement Mitigation Measure BIO(C)-1.1.⁶ Although this alternative would be setback 35 feet from the property line and not be on the edge of the riparian corridor, the cumulative significant and unavoidable biological impact would remain. However, this alternative would lessen noise impacts since the sensitive receptors and adjacent land uses would be exposed to a shorter construction timeframe due to the reduced size. However, the environmental impacts would remain the same for all other resource areas such as Air Quality, Biological Resources, Hazards and Hazardous Resources, and Noise.
- C. Finding:** This Reduced Development Alternative 1 (Option 1) would meet nine of the 10 project objectives. The alternative would meet project objectives 1, 2, and 3 by constructing a high-density office development with amenity/retail and public space on an infill site located along a transit corridor, consistent with the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040. The proposed active space would be accessible by the public and located at the street level with amenity/retail spaces that are pedestrian oriented, consistent with project objectives 4 and 5. Under this alternative, the Project would provide a total of 1,148 parking spaces, would be required to provide bicycle parking which meets the City's bicycle parking requirement, and would meet the minimum LEED requirements and improve street frontages and landscaping along the boundaries of the site, meeting project objectives 7 to 10. The Project under this alternative would not meet project objective 6 as it would not maximize the use of the site compared to the proposed Project.

⁶ Carle, Robin. Associate Ecologist, H.T. Harvey & Associates. Personal communications. February 21, 2020.

The air quality, biological resources, and noise impacts would remain significant and unavoidable under this alternative and all construction related impacts would also remain the same. The significant unavoidable encroachment impact would be avoided if the towers are set back at least 35 feet from the Guadalupe River riparian corridor and Mitigation Measure BIO(C)-1.1 is implemented. This alternative proposes a setback of 35 feet from the property line; therefore, the significant and unavoidable encroachment impact would not be avoided. While it may meet many of the objectives, the project alternative would be a reduction of approximately 392,233 square feet and 146 parking spaces. The reduction in underground parking spaces would be significantly higher than the reduction in useable above-ground square footage and would not meet the minimum Municipal Code parking requirements. Additionally, this alternative would not reduce any of the significant and unavoidable impacts under CEQA and all impacts would remain the same, therefore this alternative is rejected.

3. Reduced Development Alternative 1 (Option 2) – Reduced Square Footage With 100 Foot Setback

- A. Description of Alternative:** Under this alternative, the two office towers would be 16 stories tall (which includes one mechanical penthouse floor) with a total project square footage of 828,070 square feet⁷. This alternative would include six levels of below-grade parking for a total of 562 parking spaces. Unlike the Reduced Development Alternative (Option 1), the proposed building would be set back from the edge of the property line by 100 feet. This is a reduction of approximately 1,221,958 square feet and a reduction of 732 parking spaces.
- B. Comparison of Environmental Impacts:** The purpose of the Reduced Development Alternative 1 (Option 2) is to avoid the project's significant unavoidable air quality impact (during construction and operation) and the cumulatively considerable biological resources impact due to encroachment of the buildings within the Guadalupe River riparian corridor (as a whole). While the Project under this alternative would have six levels of below-grade parking, which would require more extensive excavation than the proposed project, the significant reduction in building size could avoid the significant unavoidable air quality impacts from construction and operation (with mitigation). The reduction in building size would provide a greater setback from the riparian corridor compared to the proposed Project, but may result in potential underground impacts to groundwater due to the added below grade parking levels. As a result, this alternative would avoid the significant unavoidable cumulative impact to the Guadalupe River riparian corridor as a whole.

⁷ Includes the basement square footage.

- C. Finding:** This Reduced Development Alternative 1 (Option 2) would meet seven of the 10 project objectives. This alternative would meet project objective 3 by constructing an office development with amenity/retail and public space which would increase jobs within the downtown. Under this alternative, active space would still be provided with amenity/retail spaces that are publicly accessible and pedestrian oriented spaces at the street level consistent with requirements of the Municipal Code and would meet project objectives 4 and 5. The Project, under this alternative, would be required to provide bicycle parking consistent with the City's bicycle parking requirement. In addition, a total of 562 parking spaces would be provided and would meet objectives 7 to 10. This alternative would not meet project objectives 1, 2, and 6 since it would not construct a high-density office development nor would it maximize the use of the site.

However, while this Reduced Development Alternative 1 (Option 2) would avoid the project's significant unavoidable cumulative biological resources encroachment impact and construction air quality impact, it would not reduce all other impacts disclosed in the Draft SEIR, which would remain the same. While this alternative would meet most of the objectives, it would not meet three of the major objectives with the potential for further impacts due to requiring deeper excavation to accommodate a 6-level underground parking structure. Furthermore, the reduction of 1,221,958 square feet would not be economically feasible for the project. A Financial Feasibility Proforma produced by CBRE (dated April 2, 2020) for this alternative found that a 100-foot setback would result in an 18,000 square foot floor plate, which would be unattractive to potential tenants in the Downtown office market. The CBRE memo found that the majority of tenants in Downtown San José are financial and professional service companies that typically desire large floor plates of 40,000 square feet or more. Of the office buildings currently in Downtown San José, those with floor plates of less than 40,000 square feet have remained vacant the longest (over two years) and have had difficulty in attracting tenants. The average cap rate for San Jose Class A commercial office buildings is 5.1% as indicated in the CBRE office sales comparable as of the date of the report. Increasing the setback to 100 feet would result in a return on cost of 3.51%, which would be lower than the cap rate and therefore economically infeasible. This alternative would avoid the project's significant unavoidable cumulative biological resources encroachment impact and construction air quality impact but it would not reduce all other impacts disclosed in the Draft SEIR, which would remain the same. While this alternative would meet most of the objectives, it would not meet three of the major objectives. For the above reasons this alternative is rejected.

4. Reduced Development Alternative 2 –Square Footage Reduction and Increase in Height

- A. Description of Alternative:** Under the Reduced Development Alternative 2 – Square Footage Reduction and Increase in Height alternative (Reduced Height Development Alternative 2), the Project would construct two 16-story office towers with a combined floor-area ratio (FAR) of 11.1. The existing General Plan designation allows for a maximum FAR of 30.0 (three to 30 stories). Under this alternative, the office towers would be built to the maximum allowable height, consistent with the General Plan designation, with a smaller building footprint. The reduction in the building footprint would allow for a greater setback from the riparian corridor. The significant unavoidable encroachment impact would be avoided if the towers are set back at least 35 feet from the Guadalupe River riparian corridor and implement Mitigation Measure BIO(C)-1.1.
- B. Comparison of Environmental Impacts:** As discussed above, if the towers are set back at least 35 feet from the Riparian Corridor Top of Bank or Edge of Vegetation, then the significant unavoidable biological resources encroachment impact would be avoided (with implementation of Mitigation Measure BIO(C)-1.1. However, with the increase in height, it is reasonable to assume that the sensitive receptors and adjacent land uses would be exposed to construction noise and air quality for a longer time frame. Under this alternative, construction activities would expose off-site receptors to PM_{2.5} emissions in excess of BAAQMD thresholds. The maximum annual PM_{2.5} concentration would exceed the BAAQMD threshold for cumulative sources and the cumulative air quality impacts would remain significant and unavoidable.
- C. Finding:** The alternative would meet nine of the 10 project objectives. The Reduced Height Development Alternative 2 would meet project objectives 1, 2, and 3 by constructing the office development to the maximum allowable height (consistent with the General Plan designation) with amenity/retail and public space on an infill site along a transit corridor consistent with the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040. The proposed active space would be accessible by the public and located at the street level with amenity/retail spaces that are pedestrian oriented consistent with project objectives 4 and 5. Under the Reduced Height Development Alternative 2, the Project would be required to provide bicycle and vehicular parking, consistent with the City's parking requirements. Additionally, the Project would meet the minimum LEED requirements and improve street frontages and landscaping along the boundaries of the site. This alternative would meet project objectives 7 to 10. The Project would not meet

project objective 6 as it would not maximize the use of the site compared to the proposed Project.

The air quality impacts would remain significant and unavoidable under this alternative. While the significant unavoidable biological resources encroachment impact would be avoided if the building footprint is set back at least 35 feet from Riparian Top of Bank or Edge of Vegetation, whichever is most restrictive, with the implementation of Mitigation Measure BIO(C)-1.1, the project would continue to have significant and unavoidable construction air quality impacts under cumulative considerable. Furthermore, the project may increase construction impacts due to the increased height. Therefore, this alternative is rejected as major significant and unavoidable impacts would remain the same or potentially increase in severity.

Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the discussion of project alternatives, the environmentally superior alternative to the project is the No Project – No Development Alternative because it would avoid all of the Project's significant environmental impacts. CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Therefore, in addition to the No Project – No Development Alternative, the Reduced Development Alternative 1 (Option 1) – Reduced Square Footage With 35 Foot Setback Alternative would be the environmentally superior alternative because it would increase the riparian setback beyond what the project currently proposes without increasing air quality impacts, although it would not reduce any of the significant and unavoidable impacts identified in the SEIR. The Reduced Development Alternative 1 (Option 1) – Reduced Square Footage With 35 Foot Setback Alternative would not meet one of the major project objectives, which is to maximize the use of an underutilized infill site compared to the proposed Project.,

MITIGATION MONITORING AND REPORTING PROGRAM

Attached to this Resolution as Exhibit "A" and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring and Reporting Program ("MMRP") for the Project required under Section 21081.6 of the CEQA Statute and Section 15097(b) of the CEQA Guidelines. The MMRP identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

STATEMENT OF OVERRIDING CONSIDERATIONS

- A. **Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated or unavoidable impacts, as set forth above, associated with project-level and cumulative air quality for construction and operation, cumulative biological resources, and cumulative construction noise.
- B. **Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the Project are acceptable in light of economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh its significant adverse environmental impact of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan, the Downtown Strategy 2040 Plan, and the Downtown Urban Design Guidelines.
- C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:

1. Envision San José 2040 General Plan Strategies, Goals, and Policies.

- Major Strategy #3 Focused Growth: The Project site is located within an identified Growth Area, as specified in the Envision San José 2040 General Plan. The project proposes to significantly intensify the site with a mixed-use development composed of commercial and office in a pedestrian-friendly design and located in proximity to a variety of services, employment centers, educational institutes, and transit. The City's calculated employment to square footage ratio is one job per 300 square feet of developed commercial, industrial, retail, and office uses. The project would develop approximately 1,526,252 square feet of office and commercial space, which would add approximately 5,088 new jobs to the Downtown area. Planning such sites for higher density mixed-use

development enables the City to provide economic and employment benefits consistent with the community objectives of the Envision San José 2040 General Plan.

- Major Strategy #9 Destination Downtown and #11 Design for a Healthful Community: The Project introduces new employment opportunities by providing up to 1,487,115 square feet of office space and 39,137 square feet of active commercial uses at the ground floor, consistent with the rhythm and activities of the Downtown area. Employees will be able to partake in the commercial uses located on the ground floor and contribute to business growth in the Downtown area by increasing the customer base for downtown businesses.
- General Plan Land Use Goal LU-1.1, LU-3, LU-3.4, and LU-5.7: The Project encourages the use of alternative transportation options through its proximity to public transit and the inclusion of bicycle parking for employees and retail users as well as on-site showers and lockers for bicycle users. The project is located approximately 560 feet from the nearest Light Rail station, 600 feet from the nearest bus stop, and one-half mile from Diridon Station. The project proposes a separated bike lane between the sidewalk and drop-off zones along the eastern and southern project frontages on Almaden Boulevard and Woz Way to aid in bike lane connectivity. The Project would increase the number of employees that continuously visit the Downtown area, which would increase the survivability of retail and encourage new retail services and amenities to locate in the area. The ground floor of the development will have retail opportunities, active uses, and storefront designs to enhance the pedestrian experience in Downtown. The ground floor active uses will also provide easier and more direct access to the Guadalupe River Trail. Ground floor retail amenities will not only serve the employees of the towers, but also workers and residents in the Downtown area. The project will also increase jobs and economic development and increase the City's jobs-to-employed ratio, providing approximately 5,088 new jobs.

2. Downtown Urban Design Guidelines and Policies

- Downtown Urban Design Policy CD-6.1, CD-6.2, and CD-6.6: The proposed project has a floor-area ratio (FAR) of 11.1, making it a very dense commercial project given the FAA restrictions on height for the parcel. This amount of density will contribute to the Downtown's growth as a vibrant urban area, and help the City actualize its vision for the Downtown core. The project has undergone extensive design review so that its scale, quality, and character strengthen Downtown's status as

an urban center. The proposed project would contain two towers connected via podium levels. The ground floor would contain an open-air paseo with commercial amenities allowing pedestrians to pass through the building to access the Guadalupe River Trail and would enhance the pedestrian experience from ground-level. The proposed development will be a recognizable development from the sky, has a strong design presence and connectivity at street level, and offers a unique connected tower approach to development in Downtown San José.

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final Supplemental Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the City's Department of Planning, Building and Code Enforcement, San José City Hall, 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and are also available for viewing electronically on the Department of Planning, Building and Code Enforcement website. The City Council hereby designates the City's Director of Planning, Building, and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

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ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

Almaden Office Project
File No. SP20-005
August 2020



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Supplemental Environmental Impact Report (SEIR) prepared for the Almaden Office Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the SEIR concluded that the impacts from implementation of the project would be less than significant.

I, Bob Pester, the applicant, on the behalf of BXP Almaden Associates, LP, hereby agree to implement the mitigation measures described below which have been developed in conjunction with the preparation of a SEIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature see attachment for signature

Date August 23, 2021

BXP ALMADEN ASSOCIATES LP,
a Delaware limited partnership

BY: BXP CALIFORNIA GP LLC,
a Delaware limited liability company,
its general partner

BY: BOSTON PROPERTIES LIMITED PARTNERSHIP,
a Delaware limited partnership,
its sole member

CB

cbernardin@bxp.com

CMS

cshen@bxp.com

af

afenton@bxp.com

BY: BOSTON PROPERTIES, INC.,
a Delaware corporation,
its general partner

E-Signed : 08/23/2021 05:59 PM EDT

Bob Pester

bpester@bxp.com
IP: 24.5.129.190

Sertifi Electronic Signature

DocID: 20210823152316339

BY:

Name: Robert Pester

Title: EVP, San Francisco Region

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact AIR-1: Construction activities associated with the proposed project would expose off-site receptors to cancer risk and PM _{2.5} emissions in excess of BAAQMD thresholds.					
<p>MM AIR-1.1: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.</p> <ul style="list-style-type: none"> For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet U.S. EPA Tier 4 emission standards. If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment. 	Submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in the mitigation measure to the City of San José Director of Planning, Building and Code Enforcement or Director's designee for review and approval.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve the construction operations plan.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit. Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. <p>The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include but not be limited to the following:</p> <ul style="list-style-type: none"> List of activities and estimated timing. Equipment that would be used for each activity. Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure. 					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> How the construction contractor will ensure that the measures listed are monitored. How the construction contractor will remedy any exceedance of the thresholds. How often and the method the construction contractor will use to report compliance with this mitigation measure <p>The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).</p>					
Impact AIR-2: Construction and operational activities associated with the proposed project would expose the off-site maximum exposed individual (MEI) to cancer risk and annual PM2.5 in excess of BAAQMD thresholds.					
<p>MM AIR-2.1: Prior to installation of any emergency generator, the project applicant shall submit documentation that demonstrates the equipment used on-site includes diesel particulate matter filters (DPM) that achieve a minimum 85 percent reduction in particulate matter emissions or submit documentation that has been reviewed and approved by the City demonstrating that the project generators will not increase lifetime cancer risk by 10 cases per one million, when combined with effects from the project construction and traffic. Significant cancer risk impacts can be avoided by the following measures:</p> <ul style="list-style-type: none"> Placement of the equipment; 	Submit documentation that demonstrates the equipment used on-site includes diesel particulate matter filters (DPM) that achieve a minimum 85 percent reduction in particulate matter emissions or submit documentation that has been reviewed and approved by the City demonstrating that the project generators will not increase lifetime cancer risk by 10 cases per one	Prior to installation of any emergency generator	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve documentation	Prior to installation of any emergency generator

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<ul style="list-style-type: none"> • Placement and orientation of the exhaust stacks; • Application of exhaust controls such as DPM filters that reduce DPM by 85 percent; and/or • Limitation to the operation hours to less than 50 hours per year. 	million, when combined with effects from the project construction and traffic.				
Impact AIR(C)-1: The maximum annual PM _{2.5} concentration would exceed the BAAQMD threshold for cumulative sources.					
<p>MM AIR(C)-1.1: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.</p> <ul style="list-style-type: none"> • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet U.S. EPA Tier 4 emission standards. • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 	Submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in the mitigation measure to the City of San José Director of Planning, Building and Code Enforcement or Director's designee for review and approval.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve the construction operations plan.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)

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<p>engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.</p> <ul style="list-style-type: none"> • Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. <p>The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include but not be limited to the following:</p> <ul style="list-style-type: none"> • List of activities and estimated timing. • Equipment that would be used for each activity . 					

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<ul style="list-style-type: none"> Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure. How the construction contractor will ensure that the measures listed are monitored. How the construction contractor will remedy any exceedance of the thresholds. How often and the method the construction contractor will use to report compliance with this mitigation measure <p>The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest).</p>					
BIOLOGICAL RESOURCES					
Impact BIO-1: The proposed building design would result in bird collisions with the building's northern, western, and southern façades.					
MM BIO-1.1: Due to the potential for the proposed towers on the project site to result in a high number of bird collisions, prior to the issuance of any building permits, the project applicant shall implement the following bird-safe building design considerations at the building's north, west, and south-facing façades that encroach entirely or partially within the 100-foot	Implement the identified bird-safe building design considerations. Submit a verification letter or plan to the Director of Planning, Building and Code	Prior to issuance of any building permits	Director of Planning, Building or Code Enforcement or the Director's designee	Review the three-year post-construction monitoring plan and lighting design strategy.	Prior to issuance of any building permits.

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<p>riparian setback to comply with LEED Pilot Credit 55: Bird Collision Deterrence:</p> <ul style="list-style-type: none"> At a height of 0 to 36 feet above-grade and 0 to 12 feet above any green roof, no more than 15 percent of the glazed area shall have a Threat Factor¹ higher than 75. All glazed corners or fly-through conditions, created when windows meet perpendicularly on a corner or when windows are installed parallel in close proximity such that a clear line of sight is created through the building, shall have a Threat Factor less than or equal to 25. All structures other than the main building(s) on-site, including but not limited to handrails, guardrails, windcreens, noise barriers, gazebos, pool safety fencing, bush shelters, band shells, etc., shall be constructed entirely of materials with a Threat Factor of 15 or lower. The combined façades shall achieve a maximum Bird Collision Threat Rating of 15 or lower. The project applicant shall develop a lighting design strategy to effectively eliminate or 	<p>Enforcement of Director's designee. The plan shall be accompanied by a letter signed by a qualified biologist.</p>			<p>Review the verification letter or plan.</p>	

¹ A material's Threat Factor is assigned by the American Bird Conservancy, and refers to the level of danger posed to birds based on birds' ability to perceive the material as an obstruction, as tested using a "tunnel" protocol (a standardized test that uses wild birds to determine the relative effectiveness of various products at deterring bird collisions). The higher the Threat Factor, the greater the risk that collisions will occur. An opaque material will have a Threat Factor of 0, and a completely transparent material will have a Threat Factor of 100.

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<p>reduce light trespass from the building by either requiring that all interior lighting must be turned off by night-time personnel after hours when the space is unoccupied or controlled automatic shutoffs such that all lighting shall automatically shut off after the space is unoccupied for 30 minutes (with exceptions).</p> <ul style="list-style-type: none"> The project applicant shall develop a lighting design strategy to effectively reduce or eliminate light trespass from exterior fixtures, either by shielding fixtures and programming them to automatically shut off from midnight until 6:00 AM or demonstrating that the project complies with the exterior lighting requirements of the latest published LEED for New Construction SS Credit, Light Pollution Reduction. The project applicant shall develop a three-year post-construction monitoring plan to routinely monitor the effectiveness of the building and site design in preventing bird collisions. <p>MM BIO-1.2: Prior to issuance of any building permits, the applicant shall submit a verification letter or plan to the Director of Planning, Building and Code Enforcement or Director's designee to ensure that all identified bird-safe design considerations have been met. The plan shall be accompanied by a letter signed by a qualified biologist, verifying that the building</p>					

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design, as proposed, complies with LEED Pilot Credit 55: Bird Collision Deterrence.					
Impact BIO(C)-1: Construction of the new buildings within 35 feet of the edge of the riparian corridor would result in a cumulatively considerable contribution to the Guadalupe River as a whole.					
MM BIO(C)-1.1: Compensation. Prior to the issuance of any grading or building permits, the project applicant shall provide compensatory mitigation to offset project impacts on the ecological functions and values of the riparian corridor. Such compensatory mitigation shall be provided as follows: <ul style="list-style-type: none"> Riparian habitat shall be enhanced or restored to native habitat along the immediately adjacent riparian corridor², and/or off-site on the Santa Clara Valley floor and in areas that drain to the San Francisco Bay, at a minimum ratio of 2:1 (compensation:impact), on an acreage basis, for a total of 3.6 acres of enhanced or restored habitat to compensate for 1.8 acres of project encroachment within the 100-foot setback. The applicant shall submit verifications of restoration programs and/or locations, consistent with the requirement of this measure, prior to the issuance of the grading permit and building permit. A restoration 	Prepare a <i>Riparian Habitat Mitigation and Monitoring Plan</i> that describes the mitigation that shall be performed for on-site or off-site restoration/enhancement shall be prepared.	Prior to issuance of any grading or building permits	Director of Planning, Building or Code Enforcement or the Director's designee	Review and approve the <i>Riparian Habitat Mitigation and Monitoring Plan</i>	Prior to issuance of any grading or building permits.

² The applicant shall obtain permission from the City of San José and/or the Santa Clara Valley Water District (Valley Water) to restore/enhance the riparian corridor immediately adjacent to the project site. Valley Water may not grant permission for this work, as they often look for such opportunities as mitigation for their own projects.

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<p>progress report shall be submitted to the City prior to issuance of any occupancy permit.</p> <p>MM BIO(C)-1.2: Riparian Habitat Mitigation and Monitoring Plan. Prior to the issuance of any grading or building permits, the project applicant shall submit a <i>Riparian Habitat Mitigation and Monitoring Plan</i> (Plan) that describes the mitigation that shall be performed for on-site or off-site restoration/enhancement shall be prepared. The Plan shall be prepared and verified by a qualified biologist. The Plan shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Summary of habitat impacts and proposed mitigation ratios • Goal of the restoration to achieve no net loss of habitat functions and values • Location of mitigation site(s) and description of existing site conditions • Mitigation design which includes: <ul style="list-style-type: none"> ○ Existing and proposed site hydrology ○ Grading plan if appropriate (including bank stabilization or other site stabilization features) ○ Soil amendments and other site preparation elements as appropriate ○ Planting plan ○ Irrigation and maintenance plan ○ Remedial measures and adaptive management 					

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<ul style="list-style-type: none"> Restoration/enhancement/mitigation design that is provided along the immediately adjacent riparian corridor shall, at the minimum, consist of the removal of non-native trees, shrubs, and vines and the planting of native riparian vegetation. Where feasible, plantings used for the riparian restoration/enhancement shall be grown from the propagules collected in the watershed where the work will occur to protect the genetic integrity of the locally native riparian species. Acreage will be credited based on the extent of nonnative vegetation removed. All restoration/enhancement along the adjacent Guadalupe River would be conducted within the existing riparian canopy and not on the project site itself (i.e., not within areas that are currently paved) due to the presence of the Guadalupe River Trail. The Guadalupe River Trail separates the existing riparian vegetation from the site and precludes the creation of high-quality riparian habitat on-site. Off-site restoration/enhancement must restore or augment high-quality riparian habitat for native riparian wildlife communities. Such restoration shall need to occur in an area with sufficient setbacks and appropriate soils and hydrology to support high-quality riparian vegetation. The Plan shall also include final and performance criteria, monitoring methods, data analysis, reporting requirements, and monitoring schedule). 					

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<p>Success criteria will include quantifiable measurements of riparian vegetation type (e.g., dominance by natives) and extent appropriate for the riparian restoration location, and provision of ecological functions and values equal to or exceeding those in the riparian habitat affected. At a minimum, success criteria shall include following:</p> <ul style="list-style-type: none"> ○ At Year 10 post-planting, canopy closure at the mitigation site shall be at least 60 percent of the canopy closure at a nearby reference site (i.e., a site supporting the same habitat type as that being established at the mitigation site). <p>Monitoring methods and frequency shall be outlined in the Plan. The Plan shall include monitoring between Years 1 and 10 to document progress toward meeting the success criteria so that any necessary remedial actions can be taken to ensure that the success criteria are met. Monitoring beyond Year 10 shall be necessary if the success criteria is not met by Year 10, as monitoring is required until all success criteria defined in the Plan have been met.</p> <p>The Plan shall be implemented within one year following project impacts on riparian woodland. In addition, a letter signed by a qualified biologist accompanying the Plan shall be submitted to and approved by the</p>					

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Director of Planning, Building, and Code Enforcement or Director's designee prior to the issuance of any demolition, grading and building permits (whichever occur the earliest).					

HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.

<p>MM HAZ-1.1: Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant or its contractor shall enter the Site Cleanup Program (SCP) with the Santa Clara County Department of Environmental Health (SCCDEH) to evaluate the past uses of the property. As part of the SCP, an initial kick-off meeting will be held with SCCDEH staff who will review the April 2019 Phase I Environmental Site Assessment by <i>Haley & Aldrich, Inc.</i> and the proposed development. Based upon this review, the SCCDEH may require a Phase II Environmental Site Assessment, a Soil and Groundwater Management Plan, and/or other studies to ensure the proposed development is safe for construction workers and future site occupants.</p> <p>Prior to the issuance of demolition, grading, or building permits (whichever occurs first), the applicant or contractor shall submit proof of coordination with the SCCDEH and entrance into the SCP to the Director of</p>	<p>Enter the Site Cleanup Program with the SCCDEH to evaluate the past uses of the property.</p> <p>Implement the requirements and recommendations of the SCCDEH.</p> <p>Submit the requirements and recommendations of the SCCDEH to the Environmental Compliance Officer of the City's Environmental Services Department for review.</p>	<p>Prior to the issuance of any site demolition, grading, or excavation permits</p>	<p>SCCDEH</p> <p>Director of Planning, Building and Code Enforcement or the Director's designee</p>	<p>SCCDEH shall review the 2019 Phase I Environmental Site Assessment.</p>	<p>Prior to the issuance of any site demolition, grading, or excavation permits.</p>
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Planning, Building and Code Enforcement, or Director's designee, and the Municipal Compliance Officer.					
Impact NOI-2: Nighttime construction activities which include up to twelve (12) 24-hour concrete pours would impact up to 11 single-family residences located south and southeast of the project site.					
MM NOI-2.1: Prior to issuance of any building permits and during all nighttime ³ construction activities, the project applicant shall implement the following measures to reduce nighttime noise impacts at nearby noise-sensitive residences: <ul style="list-style-type: none"> Limit the active equipment to as few pieces of equipment as possible. To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours and/or the work sites shall be arranged to avoid the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or "smart alarms" that automatically adjust the alarm to five 	Implement the identified measures listed under Mitigation Measure NOI-2.1. If nighttime construction noise results in excessive disruption to the 11 nearby residences after implementation of the aforementioned measures, implement a construction noise monitoring plan.	During nighttime construction activities and prior to issuance of any building permits	Director of Planning, Building and Code Enforcement or the Director's designee	Review and approve construction noise monitoring plan (if nighttime construction noise results in excessive disruption)	During nighttime construction activities and prior to issuance of any building permits

³ Nighttime hours include hours outside of the City's allowable construction hours of 7:00 AM to 7:00 PM.

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<p>dBa above the ambient near the operating equipment).</p> <ul style="list-style-type: none"> Nighttime concrete pouring shall be restricted to the northernmost equipment location as shown in Figure 3.3-2 of this document or Figure 6 of Appendix G of this SEIR or a minimum distance of 270 feet from the southern and northern boundaries. No concrete trucks and pumps shall be operated along Woz Way during all nighttime activities. If nighttime construction noise results in excessive disruption, as defined below, to the 11 nearby residences after implementation of the aforementioned measures, the project applicant will be required to implement a construction noise monitoring plan. "Excessive disruption" as used in Mitigation Measure NOI-2.1 is defined as noise levels that are five dBA or more over the identified thresholds of 63 dBA L_{eq} exterior noise level at the first row of south residences and hotel; and 53 dBA L_{eq} at the southeast residences. The plan will include a provision for noise monitoring at the identified receptors, measured from the residential property line, to confirm that nighttime construction noise levels meet the applicable thresholds at the single-family residential land uses. Specifically, construction monitoring shall occur for the first two days of nighttime construction after initiation of the plan to demonstrate that the nighttime construction activities are compliant with the construction noise 					

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<p>level thresholds. If additional complaints are received after confirmation of the construction noise levels, additional monitoring will be required at regular intervals as outlined in the plan. In the event of noise complaints, the contractor will provide information (e.g., noise levels measured and activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds) to the project applicant and the City within 48 hours of being notified of the complaint. The construction noise monitoring plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of building permits.</p> <ul style="list-style-type: none"> • Sensitive receptors identified by the noise monitoring plan with the potential to be exposed to nighttime construction noise levels exceeding 63 dBA L_{eq} at the southern residences or 53 dBA L_{eq} at the southeastern residences, shall be provided with vouchers for alternate accommodations for the specific dates that nighttime construction is scheduled. • Residences or other noise-sensitive land uses within 500 feet of the construction site shall be notified of the nighttime construction schedule, in writing, at least seven days prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for responding to any local complaints about 					

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nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A telephone number for the liaison shall be conspicuously posted at the construction site.					

Source: City of San José. Draft Supplemental Environmental Impact Report. Almaden Office Project. July 2020.